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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

COMPLAINT

- against -

(18 U.S.C. § 2252(a)(2))

THOMAS MCQUEEN,
also known as “Josh Toller,”

Case No. 19-MJ-657

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

AARON SPIVACK, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

On or about July 24, 2019, within the Eastern District of New York and elsewhere, the defendant THOMAS MCQUEEN, also known as “Josh Toller,” did knowingly and intentionally distribute one or more visual depictions using a means and facility of interstate and foreign commerce, which visual depictions had been mailed, and had been shipped and transported in and affecting interstate and foreign commerce, and which contained materials which had been mailed and so shipped and transported, by any means including by computer, the production of such visual depictions having involved the use of one or more minors engaging in sexually explicit conduct, and such visual depictions were of such conduct.

(Title 18, United States Code, Section 2252(a)(2))

The source of your deponent's information and the grounds for his/her belief are as follows:¹

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been involved in the investigation of numerous cases involving the sexual exploitation of children. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. On or about July 24, 2019, agents with the FBI's Violent Crimes Against Children Task Force executed a judicially-authorized warrant to search the premises known and described as 3551 21st Street, Apartment 5G, Queens, New York (the "Premises").² Previously, the FBI had developed information that an individual using the alias "Josh Toller" had purchased child pornography using a computer that was connected to an IP Address registered to the Premises. Specifically, utilizing a Venmo account³ with the username "@josh_toller" (the "Toller Venmo Account"), "Toller" electronically transferred

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

² On or about July 23, 2019, United States Magistrate Judge Steven M. Gold issued a warrant authorizing the Government to search the Premises for evidence, fruits and instrumentalities of violations of Title 18, United States Code, Sections 2252 and 2252A (possession, receipt and distribution of child pornography). See 19-MJ-654 (SMG).

³ Venmo is mobile payment service owned by PayPal, Inc. that permits accountholders to electronically transfer funds using a computer, mobile phone and other electronic devices.

United States currency to a known distributor of child pornography. Further investigation revealed that the Toller Venmo Account was registered to a “Josh Toller” with the telephone number (917) 396-2596.

3. Moreover, utilizing the Kik Messaging cellphone application,⁴ “Josh Toller” used the username “josh00709” (the “Toller Kik Account”) to communicate with an undercover FBI agent (“UC-1”) regarding child pornography. For example, using the Toller Kik Account, “Toller” advised UC-1, in substance and in part, that he had a collection of child pornography, including videos that he had recorded himself using Periscope, a live video-streaming cellphone application. In addition, using the Toller Kik Account, “Toller” stated to UC-1 that he had, in fact, purchased child pornography online and sent UC-1 an exemplar over e-mail. I have reviewed the exemplar provided by “Toller” to UC-1 and have determined that it depicts an underage female, estimated to be under the age of 12, removing her clothing and exposing her genitals to the camera. Records obtained from Kik revealed that the Toller Kik Account is registered to a “Josh Toller” with the same telephone number as the Toller Venmo Account, to wit: (917) 396-2596.

4. Records obtained from T-Mobile, Inc., reveal that the telephone number (917) 396-2596 is subscribed to in the name of the defendant THOMAS MCQUEEN, also known as “Josh Toller,” at the address of the Premises.

5. On or about July 24, 2019, agents executing the above-described search warrant encountered the defendant THOMAS MCQUEEN, also known as “Josh Toller,” at

⁴ Kik Messenger is an instant messaging application designed for use on smartphone devices.


the Premises. Upon entering, agents placed a call to the telephone number (917) 396-2596 and observed a cellphone ringing in a bedroom believed to belong to MCQUEEN.

6. During the execution of the search warrant, the defendant THOMAS MCQUEEN, also known as “Josh Toller,” made voluntary statements to the agents. For example, in substance and in part, MCQUEEN stated that he uses the alias “Josh Toller”; that he created the Toller Venmo Account and the Toller Kik Account; and that he had paid for child pornography on the internet.

7. Moreover, the defendant THOMAS MCQUEEN, also known as “Josh Toller,” stated to agents, in substance and in part, that he maintained an account with Mega Limited (“Mega”), a New Zealand-based cloud storage and file hosting service. MCQUEEN further stated he that had transferred several hundred files containing child pornography into his Mega account. MCQUEEN consented to a search of his Mega

account, which confirmed the presence of approximately 200 videos and images containing child pornography, including the exemplar that “Josh Toller” previously provided to UC-1.

WHEREFORE, your deponent respectfully requests that the defendant THOMAS MCQUEEN, also known as “Josh Toller,” be dealt with according to law.


AARON SPIVACK
Special Agent, Federal Bureau of Investigation

Sworn to before me this
24th day of July, 2019


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